

The Wilderness Society * National Audubon Society * Wild Utah Project *
Southern Utah Wilderness Alliance

Via electronic mail (utrmail@blm.gov)

Bureau of Land Management
Richfield Field Office
Attn: Cindy Ledbetter
150 East 900 North
Richfield, Utah 84701

Re: DOI-BLM-UT-C020-2017-0001-EA, June 2017 Oil and Gas Lease Sale

Dear Ms. Ledbetter:

Thank you for the opportunity to submit comments on the Environmental Assessment for Utah BLM's June 2017 oil and gas lease sale for parcels in the Richfield Field Office. We are writing to express concerns with the manner in which BLM is complying with the letter and intent of the amended land use plans and guidance regarding prioritizing leasing and development outside of greater sage-grouse habitat. We recommend BLM defer parcels 007, 008, 017, 018, 019, 020, 021, 022, 023, 024 and 025 (hereinafter referred to as the "PHMA Parcels"), which are in Priority Habitat Management Areas (PHMA) until the agency completes adequate analysis to support its conclusion to proceed with leasing and to comply with applicable requirements for associated development.

The EA acknowledges there are 11 parcels in PHMA. EA, p. 29. The "Conformance with BLM Land Use Plan" section of the EA provides that the "alternatives described below are in conformance with the RFO RMP, (BLM 2008), as maintained and as amended by the 2015 Greater Sage Grouse EIS ROD (BLM 2015)." EA, p. 3. The EA also incorporates applicable stipulations requiring application of a no surface occupancy (NSO) stipulation and requiring mitigation to achieve a net conservation gain. EA, p. 29. However, the EA does not mention or address the requirements in the ROD and the Utah Approved RMP Amendment regarding prioritization of leasing and development outside sage-grouse habitat, or the related implementation guidance.

The Greater Sage Grouse EIS ROD referenced in the EIS includes a "Prioritization Objective" which provides:

In addition to allocations that limit disturbance in PHMAs and GHMAs, the ARMPAs prioritize oil and gas leasing and development outside of identified PHMAs and GHMAs to further limit future surface disturbance and to encourage new development in areas that would not conflict with GRSG. This objective is intended to guide development to lower conflict areas and, as such, protect important habitat and reduce the time and cost associated with oil and gas leasing development. It would do this by avoiding sensitive areas, reducing the complexity of environmental review and analysis of potential impacts on sensitive species, and decreasing the need for compensatory mitigation.

ROD, p. 1-23. The Utah Approved RMP Amendment echoes this directive, including the following objective:

Priority will be given to leasing and development of fluid mineral resources, including geothermal, outside of PHMA and GHMA. When analyzing leasing and authorizing development of fluid mineral resources, including geothermal, in PHMA and GHMA, and subject to applicable stipulations for the conservation of GRSG, priority will be given to development in non-habitat areas first and then in the least suitable habitat for GRSG. The implementation of these priorities will be subject to valid existing rights and any applicable law or regulation, including, but not limited to, 30 USC 226(p) and 43 CFR, Part 3162.3-1(h).

Utah Approved RMP Amendment, p. 2-25. Neither of these provisions is cited in the EA in relation to the PHMA Parcels, raising questions regarding if and how BLM is complying with the relevant plans.

Further, BLM has issued guidance elaborating on the way agency staff are to comply with the requirement to prioritize leasing and development outside sage-grouse habitat in Instruction Memorandum (IM) 2016-143 Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization¹. IM 2016-143 provides the following, in making leasing decisions:

Lands within PHMAs: BLM state offices will consider EOIs for lands within PHMAs after lands outside of GHMAs and PHMAs have been considered, and EOIs for lands within GHMA have been considered. When considering the PHMA lands for leasing, the BLM State Offices will ensure that a decision to lease those lands would conform to the conservation objectives and provisions in the GRSG Plans (e.g., Stipulations) including special consideration of any identified SFAs.

The IM also sets out “factors to consider” after applying this prioritization sequence:

- Parcels immediately adjacent or proximate to existing oil and gas leases and development operations or other land use development should be more appropriate for consideration before parcels that are not near existing operations. This is the most important factor to consider, as the objective is to minimize disturbance footprints and preserve the integrity of habitat for conservation.
- Parcels that are within existing Federal oil and gas units should be more appropriate for consideration than parcels not within existing Federal oil and gas units.
- Parcels in areas with higher potential for development (for example, considering the oil and gas potential maps developed by the BLM for the GRSG Plans) are more appropriate for consideration than parcels with lower potential for development. The Authorized Officer may conclude that an area has “higher potential” based on all pertinent information, and is

¹ Available at:

https://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2016/IM_2016-143.html

not limited to the Reasonable Foreseeable Development (RFD) potential maps from Plans analysis.

- Parcels in areas of lower-value sage-grouse habitat or further away from important life-history habitat features (for example, distance from any active sage-grouse leks) are more appropriate for consideration than parcels in higher-value habitat or closer to important life-history habitat features (i.e. lek, nesting, winter range areas). At the time the leasing priority is determined, when leasing within GHMA or PHMA is considered, BLM should consider, first, areas determined to be non-sage-grouse habitat and then consider areas of lower value habitat.
- Parcels within areas having completed field-development Environmental Impact Statements or Master Leasing Plans that allow for adequate site-specific mitigation and are in conformance with the objectives and provisions in the GRSG Plans may be more appropriate for consideration than parcels that have not been evaluated by the BLM in this manner.
- Parcels within areas where law or regulation indicates that offering the lands for leasing is in the government's interest (such as in instances where there is drainage of Federal minerals, 43 CFR § 3162.2-2, or trespass drilling on unleased lands) will generally be considered more appropriate for leasing, but lease terms will include all appropriate conservation objectives and provisions from the GRSG Plans.
- As appropriate, use the BLM's Surface Disturbance Analysis and Reclamation Tracking Tool (SDARTT) to check EOI parcels in PHMA, to ensure that existing surface disturbance does not exceed the disturbance and density caps and that development of valid existing rights (Solid Minerals, ROW) for approved-but-not-yet-constructed surface disturbing activities would not exceed the caps.

The EA does not include any discussion of how BLM determines that these PHMA parcels were appropriate to include in leasing based on the prioritization sequence or how the foregoing factors were applied in determining each of the PHMA Parcels were acceptable for leasing. This concern is underscored by the findings of recent, publicly available reports on the compatibility of energy development with sage-grouse conservation. For instance, in 2014, the Western Values Project released a study prepared by WEST, Inc. showing that, across the West, including in the area of the Richfield Field Office proposed for leasing, priority habitats for sage-grouse have very low to non-existent oil and gas development potential.² That study also shows that there are few existing leases in the vicinity of the area proposed for leasing, which is confirmed by updated information on existing leases from BLM and shown in the attached map (with the PPH Parcels shown in red and existing leases shown in purple). The presence of PHMA and lack of development underscore the importance of BLM complying with the requirement to prioritize leasing outside habitat and deferring the PHMA Parcels from this sale. As stated in the recent Wind River/Bighorn Basin District EA for the August 2017 lease sale:

After careful review of the parcels, the BLM has determined that it was appropriate to defer certain parcels nominated for inclusion in the August 2017 oil and gas lease sale, including the parcel partially in the Rawlins Field Office. These deferrals were made consistent with

² Western Values Project, Analysis of the Overlap between Priority Greater Sage-Grouse Habitats and Existing and Potential Energy Development Across the West at 12, 15 (Oct. 2014), available at <http://westernvaluesproject.org/wp-content/uploads/2014/10/Greater-Sage-Grouse-Priority-Habitats-and-Energy-Development.pdf>.

the BLM's sage-grouse conservation plans and strategy, which direct the BLM to prioritize oil and gas leasing and development in a manner that minimizes resource conflicts in order to protect important habitat and reduce development time and costs. Parcels deferred are generally located in sage-grouse important life-history habitat features such as active or occupied leks, and/or are not proximate to adjacent to existing development, and are in areas of low oil and gas development potential. Based on the foregoing, these parcels are deferred through State Director discretion, are not analyzed in detail in this EA, and will not be discussed further.

EA, pp. 1-2 – 1-3.³

Further, the EA does not address potential impacts from development on surrounding lands on PHMA in the context of prioritization of lands for leasing. The EA does acknowledge: “Indirect impacts could occur if the mineral resources were exploited from surrounding State or private lands” but also concludes that “indirect impacts would be lessened on State lands due to regulations and mitigation identified in the State’s Greater Sage Grouse Conservation Plan.” EA, p. 29. However, the potential for impacts on PHMA should be analyzed in more depth and explicitly as part of BLM’s consideration of its obligation to consider lands in PHMA after consideration of nominated parcels outside habitat and after parcels in General Habitat Management Areas.

Finally, the EA does not address prioritization of development outside PHMA as part of the lease stipulations or in other provisions applicable to the PHMA Parcels. IM 2016-143 includes requirements to implement a “Prioritization Sequence for Permits for Oil and Gas Development and Operations in or near GRSG Habitats” that provides:

When processing permits for oil and gas development and operations in or near GRSG habitat, follow this prioritization sequence:

1. Lands outside PHMAs/GHMAs: The BLM will encourage development outside of PHMAs/GHMAs by working with operators to focus their development proposals away from GRSG habitats.
2. Lands in GHMAs: Authorized Officers will use the prioritization sequence to meet the conservation objectives and provisions in the GRSG land use Plans by encouraging development in GHMA before development in PHMA, by taking into consideration the factors and existing prioritizations (as detailed below) GRSG land use Plans when processing permits for well locations.
3. Lands in PHMA: Authorized Officers will use the prioritization sequence to meet the conservation objectives and provisions in the GRSG land use Plans by encouraging development, first outside of GHMA/ PHMA, and then in GHMA, before development in PHMA, while taking into consideration the factors and existing prioritizations (as detailed below) when processing permits for well locations.

³ DOI-BLM-WY-R000-2017-0001-EA, available at: https://eplanning.blm.gov/epl-front-office/projects/nepa/65707/96369/116428/v1_WRBBD_EA.pdf.

Once BLM analyzes whether leasing of the PHMA Parcels are suitable for leasing, the agency should also incorporate (in any parcels appropriate for leasing) provisions into the lease terms that highlight its obligations to prioritize development outside PHMA and the potential effects on approval of requests for permits to drill.

In the Sage Grouse ROD, PHMA is defined as “BLM-administered lands identified as having the highest habitat value for maintaining sustainable GRSG populations.” ROD p. 1-15. The importance of protecting PHMA led to the provisions in the ROD, Utah Approved RMP Amendment and IM 2016-143 that require BLM to prioritize leasing and development outside sage-grouse habitat and especially outside PHMA. BLM has not complied with these requirements in the EA and must fully analyze whether the PHMA Parcels are appropriate for leasing and, to the extent any of the PHMA Parcels are suitable after analyzing the factors set out above, must also incorporate lease terms to ensure development on any of the PHMA Parcels will also be subject to the prioritization requirements set out in applicable plans and guidance.

We appreciate your attention to these comments and look forward to seeing them addressed.

Sincerely,

Nada Culver, Director and Senior Counsel
BLM Action Center
The Wilderness Society
1660 Wynkoop Street, #850
Denver, CO 80202
303-225-4635
nada_culver@twc.org

Brian Rutledge, Vice President
The National Audubon Society
Director, Sagebrush Ecosystem Initiative
4510 CR 82E
Livermore CO 80536
brutledge@audubon.org

Allison Jones, Executive Director
Wild Utah Project
824 South 400 West, Suite B-117
Salt Lake City, UT 84101
801-328-3550
allison@wildutahproject.org

Steve Bloch, Legal Director
Southern Utah Wilderness Alliance
425 East 100 South
Salt Lake City, Utah 84111
801-428-3981
steve@suwa.org